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SERVICE DATE - FEBRUARY 13, 2004

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-864X

**Hennepin County Regional Railroad Authority - Abandonment Exemption - In McLeod,
Carver and Hennepin Counties, MN**

BACKGROUND

In this proceeding, the Hennepin County Regional Railroad Authority (HCRRA or railroad) filed a notice under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad in McLeod, Carver and Hennepin counties, Minnesota (MN). The rail line proposed for abandonment extends from Milepost 24.6 near Wayzata to Milepost 68.5 in Hutchinson (subject rail line). The total distance is approximately 43.9 miles. Upon receipt of abandonment authority, HCRRA would be able to remove rails, crossties, ballast, bridges or other track material. HCRRA intends to remove the rails, but preserve the rail line for future rail use or other compatible public transportation uses. A map depicting the rail line in relationship to the area served is appended to this report.

DESCRIPTION OF THE LINE

The land use / land cover types in the vicinity of the right-of-way (ROW) include urban, residential and rural. The residential land uses are most common on the eastern portions of the line and the rural land uses are most common on the western portions of the line. The urban land uses are present in the City of Hutchinson. According HCRRA, a prior owner of the rail line reduced the width of the ROW from 100 feet to as narrow as 20 feet through property sales. HCRRA also stated that rail traffic has not originated, terminated or moved overhead on the subject line for more than three years. The last movement of traffic on the line occurred on May 16, 2000. Prior to this date, the line was used to move approximately 420 cars per year to transport plastic, lumber, scrap steel and chemicals.

The subject line was built in the late 1800s by James J. Hill as part of the Dakota Rail Line. Mr. Hill provided rail service to two hotels on Lake Minnetonka. In the 1880s, the line was owned and operated by the St. Paul, Minneapolis & Manitoba Railway. In the 1900s, the railway was renamed the Great Northern and both passengers and freight moved on the line.

Burlington Northern assumed ownership in 1970 following the merger of three railroads. In 1985, Burlington Northern turned the rail line over to Dakota Rail, Inc. to operate. In a 1990 bankruptcy proceeding, new owners assumed control of Dakota Rail, Inc. and the rail line. Rail America, Inc. purchased Dakota Rail, Inc. and the rail line in 1995 and continued to serve six to seven customers.

In May 2000, Dakota Rail, Inc. (still under the ownership of Rail America) filed for abandonment of the line as a result of declining customer demand and deteriorating track conditions. The petition was dismissed after HCRRA was granted permission to acquire the line through an offer of financial assistance. HCRRA stated that it has not been economically feasible to resume rail operations; and therefore, has sought abandonment in this proceeding. However, HCRRA intends to preserve the ROW for future rail use or other compatible public transportation use.

HCRRA stated that a prior owner of the rail line had leased property adjacent to the line to an oil company in St. Bonafacious. Activities of the oil company apparently resulted in contamination of the ROW at that location. HCRRA has removed the tanks, which were the source of the contamination, and is in the process of obtaining a file closure letter from the Minnesota Pollution Control Agency. A Phase I Environmental Site Assessment completed for HCRRA also identified 32 sites and properties on and adjacent to the rail line with a high likelihood of soil and/or groundwater contamination, and 41 sites and properties on and adjacent to the rail line with a medium environmental risk for soil and/or groundwater contamination.

According to HCRRA, there are up to 20 structures on the line that are or may be 50 years of age or older including 17 bridges and three buildings. The majority of the bridges are timber trestles. The three buildings include the Spring Park Station (constructed in 1900 and altered in 1949), the Hutchinson Station (constructed in 1886, altered in 1949, and damaged by fire in 2001), and a concrete block building at Lester Prairie (constructed in the 1950s).

ENVIRONMENTAL REVIEW

The railroad submitted environmental and historical reports that indicate that the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. The railroad served these reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service - State Resource Conservationist (formerly the Soil Conservation Service) concluded that the proposed abandonment is not likely to permanently affect agricultural land.

The Carver County Regional Railroad Authority, City of Mound, City of Spring Park, and City of Wayzata expressed support for the proposed abandonment. The City of Hutchinson Planning Commission, City of Orono, City of Spring Park, and City of Wayzata also noted that the proposed abandonment is consistent with their land use plans.

The City of the Village of Minnetonka Beach stated that the proposed abandonment is inconsistent with the City's Comprehensive Plan. The City's Comprehensive Plan states that the rail line should be retained for railroad use and should not be abandoned.

The Metropolitan Council (Council)¹ concluded that the proposed abandonment is in conformance with the metropolitan system plan for transportation by preserving the linear ROW. The Council recommended that HCRRA retain the bridges on the line for potential future use as a regional trail. Under existing permits, the Council noted that it operates regional sanitary sewer lines that occur within or cross the rail line ROW. The Council has no objection to the abandonment as long as its existing permits remain in effect and that the Council would continue to have access to the sewer lines for maintenance and reconstruction. The Council also found that the Comprehensive Plan for the City of the Village of Minnetonka Beach is not compatible with the recreational trail plans of the other cities along the rail line.

Because traffic has not moved on the subject rail line for at least two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

The U.S. Army Corps of Engineers - St. Paul District had not responded to the applicant's environmental report at the time this Environmental Assessment (EA) was prepared. HCRRA notes that wetlands would not be affected by the proposed abandonment. However, the line crosses numerous streams and lakes and it is uncertain whether these bridges would be removed by HCRRA. Bridge removal activities have the potential to impact waters of the United States. Therefore, we have recommended a condition to address this concern.

The U.S. Fish and Wildlife Service (USFWS) - Twin Cities Field Office determined that the project is not likely to adversely affect any Federally listed or proposed threatened or endangered species, or adversely modify their critical habitat. The Fort Snelling realty division of the USFWS also expressed no concerns regarding the proposed abandonment.

The U.S. Environmental Protection Agency - Region 5 had not responded to HCRRA's environmental report at the time this EA was prepared.

¹The Metropolitan Council is the regional planning agency in the seven-county metropolitan area of the Twin Cities, Minnesota.

The U.S. Department of Commerce's National Geodetic Survey (NGS) has identified five (5) geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends a condition to address this concern.

The Minnesota Pollution Control Agency (MPCA) expressed concern about potential environmental impacts of the proposed abandonment. The MPCA concerns are related solid and hazardous waste disposal, asbestos, stormwater runoff, contaminated soil, and above and below ground storage tanks. Therefore, we have recommended a condition to address this concern.

The Minnesota Historical Society (the State Historic Preservation Office or SHPO) responded to the applicant's historical report but had not completed its assessment of the proposed abandonment at the time this EA was prepared. The SHPO requested additional information on the extent of fire damage to the Hutchinson Station, and also noted that it was not clear whether the rail line itself meets eligibility criteria for the National Register of Historic Places. Pending completion of the SHPO's assessment, SEA recommends a condition to ensure compliance with the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

We recommend that the following environmental conditions be placed on any decision granting abandonment authority:

1. Prior to conducting any abandonment and salvaging activities, the railroad shall consult with the U.S. Army Corps of Engineers - St. Paul District on permitting requirements for any abandonment and salvaging activities that may occur within waters of the United States including but not limited to streams, rivers, lakes and wetlands.
2. Prior to conducting any abandonment and salvaging activities, the railroad shall consult with the Minnesota Pollution Control Agency regarding solid and hazardous waste disposal, asbestos, stormwater runoff, contaminated soil, and above and below ground storage tanks.
3. The National Geodetic Survey (NGS) has identified five (5) geodetic station markers that could be affected by the proposed abandonment. Therefore, the railroad shall notify NGS 90 days prior to salvage activities in order to plan for their potential removal.
4. The railroad shall retain its interest in and take no steps to alter the historic integrity of the right-of-way until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Subject to the recommended conditions, and based on the information provided from all sources to date, we conclude that, as currently proposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and, therefore, no change in operations), discontinuance of service without abandonment and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Surface Transportation Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of David Navecky, who prepared this environmental assessment. **Please refer to STB Docket No. AB-864X in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to David Navecky at 202-565-1593 (naveckyd@stb.dot.gov).**

Date made available to the public: February 13, 2004

Comment due date: **March 1, 2004**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

ENVIRONMENTAL ASSESSMENT
STB DOCKET NO. AB-864X
Hennepin County Regional Railroad Authority
Abandonment Exemption
In McLeod, Carver and Hennepin Counties, MN
Decision ID No. 34422

